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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,387	06/20/2003	Terry J. Johnson	27339.01.8005	8235

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VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/600,387

Applicant(s)

JOHNSON ET AL.

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 26, 28-42 and 71-87 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 26, 28-42 and 71-87 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/2/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

***Please note that Khoa Tran is no longer the examiner of this application.
Any future inquiries should be directed to the undersigned.***

Election/Restrictions

Applicant's election without traverse of Group I in the reply filed on November 12, 2004 is acknowledged.

Claims 24, 25, 27, 56-70 and 88-90 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Note: since the election of species requirement is not understood, it has been withdrawn.

After review of the claims, a further restriction of the article claims was deemed necessary as follows:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-23, 26, 28-42 and 71-87, drawn to a dispensing rack, classified in class 211, subclass 59.2.
- II. Claims 43-55, drawn to a loading magazine, classified in class 206, subclass 427.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP §

806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because a generic container, without perforated strips, etc or the hands of a person could be used to load articles into the rack. The subcombination has separate utility such as use, in and of itself, as a display device (no rack need).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Robert Beiser on January 18, 2005, a provisional election was made without traverse to prosecute the invention of group I, claims 1-23, 26, 28-42 and 71-87. Affirmation of this election must be made by applicant in replying to this Office action. Claims 43-55 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the different external products must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. (see claim 85)

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claim 72 is objected to because of the following informalities: in line 1, "rail" should be "rails". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-23, 26, 28-42 and 71-87 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 1, it is unclear what is trying to be claimed between the preamble and section (a). In the preamble, it sets forth that limitations for each of the panels will be discussed in the body; however, in section (a) plural panels are discussed in relation to the rails. Also for claim 1, it is unclear whether or not the first, second and third rails are one of the rails claimed previously, "said first chute" and "said second chute" lack antecedent basis, and it is misdescriptive to state that the second rail has first and second stops. For claim 2, it is unclear which panel is being referred to in the preamble and it is unclear whether or not the "a second panel" is one of the panels claimed previously. For claims 3 and 81, it is indefinite to claim a comparison dimension (chutes being slightly greater in width than the cylindrical articles) with respect to a feature, i.e. the cylindrical articles, not being positively claimed. For claims 5, 6 and 8, "said retention pins" lacks antecedent basis (Note: retention pin members were the features claimed previously.). For claim 10,

"said first and second chutes" lacks antecedent basis. For claim 11, it is unclear whether or not the first and second chutes are the same chutes as claimed previously and the phrase "after replacement of said cylindrical articles said chutes" is confusing. For claim 14, it is indefinite to claim a comparison dimension with respect to a feature, i.e. the cylindrical articles, not being positively claimed. For claim 26, it is unclear whether or not the "an access door" is the same door claimed previously and it is unclear which "said panel" is being claimed in line 2. For claim 30, it is unclear which "said panel" is being claimed in line 3. For claim 32, "the first and second cylindrical articles" lack antecedent basis. For claim 40, "said access door" lacks antecedent basis. For claim 42, it is unclear which chute is being referred to in line 5. Also for claim 81, it is unclear how the rail defines a chute between itself and how the return area is disposed above itself. For claim 83, it is unclear how the second rail defines a chute between itself and it is indefinite to claim a comparison dimension with respect to a feature, i.e. second products, not being positively claimed. For claim 87, "the products" lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 10-13, 19, 20, 30, 32, 34, and 35 are rejected under 35

U.S.C. 102(b) as being anticipated by Domenico. Domenico teaches a dispensing unit (see Fig. 11) comprised of a plurality of panels (130) with horizontally extending rails (136,138,140,142) forming chutes there between. One chute is located in front of another second chute; the another chute being larger and having a dispensing portion/cradle-return area/bay in front of the dispensing portion/cradle-return area/bay of the one chute. Both chutes also include a loading portion above the dispensing portion thereof and a stop means (156,166) adjacent the dispensing portion. The chutes are serpentine and include C-shape portions. Pins (134) attach the panels to one another and these pins can be unattached to provide a "broken down"/smaller article for storage, etc. Please note that limitations found in intended use/"for" statements have not been given any weight in the claims. Please note that product by process limitations (i.e. injected molded) are not given weight in claims.

Claims 1, 3, 10-13,19, 20, 29, 30, 32, 35, 41, 71-78, 81-84, 86 and 87 are rejected under 35 U.S.C. 102(b) as being anticipated by Northcutt. Northcutt teaches a dispensing unit (see Fig. 1) comprised of a plurality of panels (outer housing panels) with horizontally extending rails (C-shaped members in Fig. 1) forming chutes there between. One chute is located in front of another chute; the another chute being larger and having a dispensing portion/bay in front of the dispensing portion/bay of the one chute. Both chutes also include a loading portion above the dispensing portion thereof and a stop means (11) adjacent the dispensing portion. The chutes are serpentine and

C-shaped. A door is provided adjacent the loading portions and a cradle/return area (7) is provided adjacent the dispensing portions.

Claims 10-12, 19, 29, 32, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Stefan. Stefan teaches a dispensing unit (see Fig. 1) comprised of a plurality of panels (13a,b) with horizontally extending rails (42,49) forming chutes there between. A first chute is located above a second chute. Both chutes also include a loading portion/cradle/bay above the dispensing portion thereof and a stop means (31b) adjacent the dispensing portion. The chutes are serpentine and including C-shape portions. Pins (31a) attach the panels to one another and these pins can be unattached to provide a "broken down"/smaller article for storage, etc (see Fig. 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 8, 18, 26, 39, 41, 71-79 and 81-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domenico in view of Schwimmer. As stated above, Domenico teaches the limitations found in claims 1, 2, 10-13, 19, 20, 29 32, 34, and 35, including a dispensing unit with loading portions. For claims 3, 4, 8, 18, 26, 39, 41, 71-79 and 81-87, Domenico fails to teach a door for closing off the loading portions when desired. Schwimmer teaches a dispensing unit (10) having a door (14) which closes off

the loading portion thereof. The plastic door includes tabs (16,20) with protrusions (17,21) which snap into openings (18) on the unit's panels. The door further includes labels thereon (column 6, lines 3-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Domenico by adding a door adjacent its loading portions, such as a taught by Schwimmer, to provide a means to prevent excess dirt and dust from entering the unit, to provide a means to prevent/dissuade one from accessing the products in the unit from the loading portion, etc.

For claim 85, the chutes of Domenico are capable of dispensing different sized articles there through. Therefore, to dispense various cylindrical articles, e.g. in size, from these chutes would have been an obvious design consideration to one having ordinary skill in the art, depending the products desired to be sold/dispensed, etc.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Domenico in view of Schwimmer as applied to claims 3, 4, 8, 18, 26, 39, 41, 71-79 and 81-87 above and further in view of Beaulieu. As stated above, Domenico in view of Schwimmer teaches the limitations found in claims 3 and 4, including a dispensing unit with pins. For claim 5, Domenico in view of Schwimmer fails to teach that the pins are U-shaped and fit into bores on the panels. Beaulieu teaches members connected via U-shaped members (18)/bores (22 in 20). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Domenico in view of Schwimmer by using alternate pin members between the panels, i.e. using the pin members/bores of Beaulieu there between instead of the pin means presently used, to

provide pin members which are completely removable from the panels, for storage, replacement, etc.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Domenico in view of Schwimmer and Beaulieu as applied to claims 3-5 above, and further in view of Woodhead. As stated above, Domenico in view of Schwimmer and Beaulieu teaches the limitations found in claims 3-5, including a dispensing unit with panels. For claim 9, Domenico in view of Schwimmer and Beaulieu fails to teach openings in the panels. Woodhead teach panels with openings (64) therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Domenico in view of Schwimmer and Beaulieu by adding openings in the panels thereof, such as is taught by Woodhead, to provide ventilation inside the unit, to lighten the weight of the unit as a whole, for product viewing purposes, etc.

Claims 14 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Domenico in view of Henry. As stated above, Domenico teaches the limitations found in claims 10 and 30, including a dispensing unit with pins between its panels. For claims 14 and 31, Domenico fails to teach adjustable pins. Henry teaches a unit having adjustable pins (24). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Domenico by using alternative pins between the panels, i.e. using adjustable pins, such as a taught by Henry, there between instead of the pins presently used, to provide a means to adjust the widths of the chutes, for specific articles, and/or to provide compactness for storage purposes, etc.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Domenico in view of Henry as applied to claims 10 and 14 above, and further in view of Schwimmer. As stated above, Domenico in view of Henry teaches the limitations found in claims 10 and 14, including a dispensing unit with loading portions. For claim 15, Domenico in view of Henry fails to teach a door for closing off the loading portions when desired. Schwimmer teaches a dispensing unit (10) having a door (14) which closes off the loading portion thereof. The plastic door includes tabs/clip means (16,20) with protrusions (17,21) which snap into openings (18) on the unit's panels. The door further includes labels thereon (column 6, lines 3-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Domenico in view of Henry by adding a door adjacent its loading portions, such as a taught by Schwimmer, to provide a means to prevent excess dirt and dust from entering the unit, to provide a means to prevent/dissuade one from accessing the products in the unit from the loading portion, etc.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Domenico in view of Woodhead in view of Pendergrast, Jr et al. As stated above, Domenico teaches the limitations found in claim 19, including a dispensing unit with loading portions. For claim 21, Domenico fails to teach a dispensing magazine means. First, Woodhead teaches using a magazine means for dispensing products into a rack (Fig. 2). Second, Pendergrast teaches a magazine which dispenses plural rows of articles (Fig. 3). For dispensing/loading efficiency, it would have been obvious to one of ordinary skill in the art at the time of the invention use a dispensing magazine means,

such as is taught Woodhead, with plural row dispensing capabilities, such as is taught by Pendergrast, to load articles into the rack of Domenico.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Domenico in view of Mason. As stated above, Domenico teaches the limitations found in claim 10, including a dispensing unit with panels. For claim 36, Domenico fails to teach feet under the panels. Mason teaches feet (8,9) on the bottoms of panels. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Domenico by adding feet at the bottoms of its panels, such as a taught by Mason, to provide a means to lift the unit off its support surface (protecting the bottom portions of the panels, the products inside the unit, etc).

Claims 3, 4, 8, 18, 22, 23, 26, 39, 71, 72, 81, 82, 86, and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stefan in view of Schwimmer. As stated above, Stefan teaches the limitations found in claims 10-12, 19, 29, 32, and 35, including dispensing units with loading portions. For claims 3, 4, 8, 18, 22, 23, 26, 39, 71, 72, 81, 82, 86, and 87, Stefan fails to teach a door for closing off the loading portions when desired. Schwimmer teaches a dispensing unit (10) having a door (14) which closes off the loading portion thereof. The plastic door includes tabs (16) with protrusions (17) which snap into openings (18) on the unit's panels. The door further includes labels thereon (column 6, lines 3-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Stefan by adding a door adjacent one or both of its loading portions, such as a taught by Schwimmer, to provide a means to prevent excess dirt and dust from entering the unit, to provide a

means to prevent/dissuade one from accessing the products in the unit from the loading portion, etc.

For claim 85, the chutes of Stefan are capable of dispensing different sized articles there through. Therefore, to dispense various cylindrical articles, e.g. in size, from these chutes would have been an obvious design consideration to one having ordinary skill in the art, depending the products desired to be sold/dispensed, etc.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stefan in view of Schwimmer as applied to claims 3, 4, 8, 18, 22, 23, 26, 39, 71, 72, 81, 82, 86, and 87 above and further in view of Beaulieu. As stated above, Stefan in view of Schwimmer teaches the limitations found in claims 3 and 4, including dispensing units with pins. For claim 5, Stefan in view of Schwimmer fails to teach that the pins are U-shaped and fit into bores on the panels. Beaulieu teaches members connected via U-shaped members (18)/bores (22 in 20). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Stefan in view of Schwimmer by using alternate pin members between the panels, i.e. using the pin members/bores of Beaulieu there between instead of the pin means presently used, to provide pin members which are completely removable from the panels, for storage, replacement, etc.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stefan in view of Schwimmer and Beaulieu as applied to claims 3-5 above, and further in view of Woodhead. As stated above, Stefan in view of Schwimmer and Beaulieu teaches the limitations found in claims 3-5, including dispensing units with panels. For claim 9,

Stefan in view of Schwimmer and Beaulieu fails to teach openings in the panels.

Woodhead teach panels with openings (64) therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Stefan in view of Schwimmer and Beaulieu by adding openings in the panels thereof, such as is taught by Woodhead, to provide ventilation inside the unit, to lighten the weight of the unit as a whole, for product viewing purposes, etc.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stefan in view of Henry. As stated above, Stefan teaches the limitations found in claims 10 and 30, including dispensing units with pins between the panels. For claim 14, Stefan fails to teach adjustable pins. Henry teaches a unit having with adjustable pins (24). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Stefan by using alternative pins between the panels, i.e. using adjustable pins, such as a taught by Henry, there between instead of the pins presently used, to provide a means to adjust the widths of the chutes, for specific articles, and/or to provide compactness for storage purposes, etc.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stefan in view of Henry as applied to claims 10 and 14 above, and further in view of Schwimmer. As stated above, Stefan teaches the limitations found in claims 10 and 14, including dispensing units with loading portions. For claim 15, Stefan in view of Henry fails to teach a door for closing off the loading portions when desired. Schwimmer teaches a dispensing unit (10) having a door (14) which closes off the loading portion thereof. The plastic door includes tabs (16,20) with protrusions (17,21) which snap into openings

(18) on the unit's panels. The door further includes labels thereon (column 6, lines 3-15). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Stefan in view of Henry by adding a door adjacent each of its loading portions, such as a taught by Schwimmer, to provide a means to prevent excess dirt and dust from entering the unit, to provide a means to prevent/dissuade one from accessing the products in the unit from the loading portion, etc.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stefan in view of Woodhead in view of Pendergrast, Jr et al. As stated above, Stefan teaches the limitations found in claim 19, including dispensing units with loading portions. For claim 21, Stefan fails to teach a dispensing magazine means. First, Woodhead teaches using a magazine means for dispensing products into a rack (Fig. 2). Second, Pendergrast teaches a magazine which dispenses plural rows of articles (Fig. 3). For dispensing/loading efficiency, it would have been obvious to one of ordinary skill in the art at the time of the invention use a dispensing magazine means, such as is taught Woodhead, with plural row dispensing capabilities, such as is taught by Pendergrast, to load articles into the rack of Stefan.

Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stefan. As stated above, Stefan teaches the limitations found in claim 10, including a dispensing unit with panels. For claim 34, Stefan fails to teach plastic panels. The examiner takes Official notice that plastic, e.g. thermoplastic resin, panels are well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Stefan by using any of a number of different

material for the panels, including plastic, depending on the desired need of the person constructing the unit, e.g. personal preferences, strength properties desired/required, economic considerations, etc.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stefan in view of Mason. As stated above, Stefan teaches the limitations found in claim 10, including dispensing units with panels. For claim 36, Stefan fails to teach feet under the panels. Mason teaches feet (8,9) on the bottoms of panels. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Stefan by adding feet at the bottoms of its panels, such as a taught by Mason, to provide a means to lift the unit off its support surface (protecting the bottom portions of the panels, the products inside the unit, etc).

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Northcutt in view of Woodhead in view of Pendergrast, Jr et al. As stated above, Northcutt teaches the limitations found in claim 19, including a dispensing unit with loading portions. For claim 21, Northcutt fails to teach a dispensing magazine means. First, Woodhead teaches using a magazine means for dispensing products into a rack (Fig. 2). Second, Pendergrast teaches a magazine which dispenses plural rows of articles (Fig. 3). For dispensing/loading efficiency, it would have been obvious to one of ordinary skill in the art at the time of the invention use a dispensing magazine means, such as is taught Woodhead, with plural row dispensing capabilities, such as is taught by Pendergrast, to load articles into the rack of Northcutt.

Claims 34 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Northcutt. As stated above, Northcutt teaches the limitations found in claim 10, including a dispensing unit with panels and chutes. For claim 34, Northcutt fails to teach plastic panels. The examiner takes Official notice that plastic, e.g. thermoplastic resin, panels are well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the unit of Northcutt by using any of a number of different material for the panels, including plastic, depending on the desired need of the person constructing the unit, e.g. personal preferences, strength properties desired/required, economic considerations, etc.

For claim 85, the chutes of Northcutt are capable of dispensing different sized articles there through. Therefore, to dispense various cylindrical articles, e.g. in size, from these chutes would have been an obvious design consideration to one having ordinary skill in the art, depending the products desired to be sold/dispensed, etc.

Allowable Subject Matter

Claims 6, 7, 16, 17, 28, 33, 37, 38, 40, 42 and 80 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

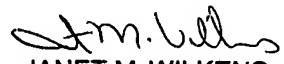
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkins
January 21, 2005


JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637